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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: JUUL LABS, INC., MARKETING,
SALES PRACTICES, AND PRODUCTS
LIABILITY LITIGATION

Case No. 19-md-02913-WHO

**JOINT CASE MANAGEMENT
CONFERENCE STATEMENT AND
PROPOSED AGENDA**

This Document Relates to:

ALL ACTIONS

Pursuant to Civil Local Rule 16-10(d) and the Court's April 16, 2021 Minute Order (ECF No. 1720), counsel for Defendants Juul Labs, Inc. ("JLI"), Altria,¹ Director Defendants,² E-Liquid Defendants,³ Retailer Defendants,⁴ and Distributor Defendants⁵ (collectively "Defendants"), and Plaintiffs' Co-Lead Counsel ("Plaintiffs") (collectively referred to herein as

¹ "Altria" refers to Altria Group, Inc., and the Altria-affiliated entities named in Plaintiffs' Consolidated Class Action Complaint and Consolidated Master Complaint (collectively, "Complaints"), see ECF Nos. 387, 388.

² "Director Defendants" refers to Messrs. James Monsees, Adam Bowen, Nicholas Pritzker, Hoyoung Huh, and Riaz Valani.

³ "E-Liquid Defendants" refers to Mother Murphy's Labs, Inc., Alternative Ingredients, Inc., Tobacco Technology, Inc., and Eliquitech, Inc.

⁴ "Retailer Defendants" refers to Chevron Corporation, Circle K Stores, Inc., Speedway LLC, 7-Eleven, Inc., Walmart, and Walgreen Co.

⁵ "Distributor Defendants" refers to McLane Company, Inc., Eby-Brown Company, LLC, and Core-Mark Holding Company, Inc.

the “Parties”) respectfully provide this Joint Case Management Statement in advance of the Further Case Management Conference scheduled for May 21, 2021.

I. PARTICIPANT INFORMATION

The conference will proceed via Zoom, and the Parties will not appear in person. Anyone who wishes to attend the conference must log in using the information available at: <https://www.cand.uscourts.gov/judges/orrick-william-h-who/>.

II. ISSUES TO BE DISCUSSED BELOW AND PROPOSED AGENDA

1. Status of Case Filings and Dismissals
2. Case Management Matters
3. Discovery Status
4. ADR Status

III. STATUS OF CASE FILINGS AND DISMISSALS

As of May 19, 2021, approximately 2,155⁶ cases are pending in this MDL, naming 107 defendants. A list of these defendants is attached as **Exhibit A**. To date, 1,860 personal injury cases and 207 government entity cases (including 166 school districts, 20 counties, 2 cities, and 19 tribes) have been filed in this MDL. 420 MDL plaintiffs have voluntarily dismissed their cases (414 personal injury plaintiffs and 3 class plaintiffs and 3 school districts); 144 cases have been dismissed without prejudice pursuant to CMO Nos. 8 and 12; and 90 other cases are subject to pending motions to dismiss without prejudice that have not yet been ruled upon. Furthermore, 96 case dismissals without prejudice have been converted to dismissals with prejudice pursuant to CMO No. 8.

There are 435 complaints pending in JCCP 5052, which is assigned to Judge Ann I. Jones of the Los Angeles Superior Court as the Coordination Trial Judge. There are 83 government entity cases, including 78 school districts and 349 personal injury cases brought on behalf of over 2,601 individual personal injury plaintiffs. There are 16 defendants named in those JCCP cases.

⁶ The numbers in this Statement reflect the Parties’ good faith estimates based on reasonably available information. The Parties will continue to work together to align their data and resolve any inconsistencies.

1 The Parties are also aware of 15 cases filed by State Attorneys General specifically:
 2 California, Illinois, Hawai‘i, New York, North Carolina, Mississippi, Minnesota, Washington
 3 D.C., Arizona, Pennsylvania, New Mexico, Massachusetts, Colorado, Alaska and Washington.
 4 Plaintiffs’ Liaison Counsel continue their outreach to various State Attorneys General to discuss
 5 cooperation with this MDL.

6 An update on matters of significance (including hearings, schedules, deadlines,
 7 depositions, substantive orders, and trial dates) in Related Actions as defined by the Joint
 8 Coordination Order (CMO 9, ECF No. 572 at 1, 3), is attached hereto as **Exhibit B**.

9 **IV. CASE MANAGEMENT MATTERS**

10 **A. Answers To Class And Bellwether Government Entity Complaints.**

11 On April 13, 2021, the Court issued its Order On Second Round Of Motions To Dismiss.
 12 (ECF No. 1694.) The opinion addressed certain claims asserted in the Second Amended
 13 Consolidated Class Action Complaint and seven of the Second Amended Public Entity
 14 Complaints. Previously, time to answer the complaints was stayed. (*See* PTO #1, ECF No. 2;
 15 2nd Amd. CMO #3, ECF No. 996.) In light of the Court’s opinion, the Parties propose that
 16 Defendants be required to answer the complaints at issue in the Second Round Motion to Dismiss
 17 Order by July 15, 2021.

18 **B. Potential Personal Jurisdiction Challenges.**

19 The E-Liquid Defendants respectfully request that the Court allow them to challenge
 20 personal jurisdiction as to the non-bellwether personal injury plaintiffs. (The E-Liquid Defendants
 21 have been dismissed from all bellwether cases.) E-Liquid Defendants assert that they are not
 22 subject to personal jurisdiction in California as alleged in this matter, and as the discovery process
 23 grows increasingly complex and expensive, the E-Liquid Defendants have an interest in asserting
 24 their due process rights with respect to this Court’s jurisdiction.

25 Plaintiffs maintain that this request is premature. Discovery is incomplete as to these
 26 defendants and the motion practice should await completion of discovery. Since the E-Liquid
 27 defendants have been dismissed from the bellwether cases they do not incur any bellwether
 28 discovery or trial costs, and their only obligations at this juncture are producing discovery.

Moreover, Plaintiffs just learned that the E-Liquid Defendants Mother Murphy and Alternative Ingredients ceased doing business with JLI and there are important discovery questions arising from that development that have not been explored at all from this very recent development.

C. Trial Mechanics

The parties are scheduling a meet and confer among lead counsel to discuss and ideally agree on some basic processes for trial. Topics will include:

1. Witness availability at trial (either live or via remote means),
2. Use of exhibits in opening statement,
3. Witness separation rules,
4. Timing and page limits on briefing during trial,
5. Jury questionnaire,
6. Admissibility of JLI documents as business records,
7. Permitting questions from jurors,
8. Video recording of trial proceedings, and
9. Motion in limine conference by lead trial counsel.

The parties anticipate discussing at least some of these issues with the Court at the June 2021 CMC. Through their conferral process, the parties intend to narrow any disputes, and present the Court with a mindful and deliberate plan for trial of these cases.

D. Government Entity Bellwether Submissions

There are six Wave One government entity bellwethers—King County, the City of Rochester, and school districts in San Francisco, Tucson, West Palm Beach, and Goddard (Kansas)—that are being prepared for trial. On May 19, Plaintiffs proposed that the parties submit to the Court letter briefs setting forth their views regarding the selection and sequencing of the Wave One bellwethers for trial, as is being done with the personal injury bellwether cases. Plaintiffs simultaneously requested that the parties meet and confer regarding proposed dates for such a submission. Defendants agree that letter briefing on this issue would be helpful and have agreed to meet and confer regarding proposed dates, but believe that it is premature to set a date now, including because discovery of the six bellwethers is far from complete. The parties would

1 also welcome any guidance the Court wishes to provide regarding an appropriate date for such
2 submissions.

3 **E. Native American Tribal Plaintiff Fact Sheets**

4 Plaintiffs and Defendants have worked cooperatively to prepare a Native American Tribal
5 Plaintiff Fact Sheet and corresponding Implementation Order. Both were filed on May 19, 2021
6 for the Court's consideration. (ECF No. 1881.)

7 **V. DISCOVERY STATUS**

8 On April 28, 2021 and May 10, 2021, the Parties participated in a discovery conferences
9 with Judge Corley. Copies of the April 27, 2021 and May 7, 2021 Joint Discovery Status Reports
10 provided in advance of those conferences are attached as **Exhibits C & D**. The parties will be
11 prepared to update the Court regarding developments since that conference.

12 The MDL Plaintiffs are holding weekly calls with JCCP counsel regarding discovery, as
13 detailed by the Joint Coordination Order (CMO No. 9, ECF No. 572) and the Deposition Protocol
14 (CMO No. 10, ECF No. 573). Pursuant to the Court's Order Appointing Special Master to
15 Oversee Depositions (ECF No. 1786), Retired United States District Court Judge Stephen G.
16 Larson has attended and provided guidance in depositions.

17 **VI. ADR STATUS**

18 Pursuant to Civil Local Rule 16-10(d), the Parties report that they continue to confer with
19 Settlement Master Thomas J. Perrelli and cooperate with his recommendations.
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1 Dated: May 19 2021

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